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RIGHTS OF THE CHILD

Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos

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Executive Summary

This report is submitted in accordance with Commission on Human Rights resolution 2000/85 of 28 April 2000. It details the working methods of the Special Rapporteur, particularly in respect to the current focus of her activities - the role of the private sector in relation to her mandate. A circular letter requesting information in this regard was sent to International Chambers of Commerce and non-governmental organizations in June 2000.

An overview of the activities which the Special Rapporteur has carried out in 2000 is provided. These included two country visits - to Morocco in March 2000 (see E/CN.4/2001/78/Add.1) and to the Russian Federation in October 2000 (see E/CN.4/2001/78/Add.2), as well as attendance at several conferences and meetings.

Some international developments relating to the sale of children, child prostitution and child pornography are then described, including the convening of conferences related to the concerns of her mandate and the adoption of new legislation. Country and region-specific developments in Australia, Argentina, Georgia, India, the Pacific region, southern Africa, Nigeria and Italy, Costa Rica and El Salvador are also discussed.

The report then focuses upon the private sector and its relationship to the concerns of the Special Rapporteur's mandate. This section commences with an overview of the current debate on the private sector and international human rights standards, and sets the context in which the Special Rapporteur has chosen to focus her analysis. This is followed by a chapter outlining the legal context through which the Special Rapporteur concludes that the private sector does have certain responsibilities, drawing upon the examples of the standards of the International Labour Organization, the Convention on the Rights of the Child and the Universal Declaration of Human Rights. Reference is made to the draft principles relating to the human rights conduct of companies being developed in the Sub-Commission on the Promotion and Protection of Human Rights by its sessional working group on the working methods and activities of transnational corporations.

The particular nature of the Special Rapporteur's concerns are then considered in the light of information received from International Chambers of Commerce and NGOs. In particular, child labour, the media, and the transport and tourism sectors are discussed, and the report concludes with a summary of some of the positive initiatives taken by companies and their employees to help children in the communities close to their areas of operation.

Introduction

1. At its fifty-sixth session, in its resolution 2000/85 of 28 April 2000, the Commission on Human Rights welcomed the report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2000/73 and Add. 1-3). In the same resolution, the Special Rapporteur was requested to submit an interim report to the General Assembly at its fifty-fifth session and a report to the Commission on Human Rights at its fifty-seventh session. The Commission also called upon States to cooperate closely with and assist her and to furnish all information requested, including by inviting her to visit their countries, and invited further voluntary contributions through the Office of the United Nations High Commissioner for Human Rights and all the necessary human and financial assistance to be provided for her work for the effective fulfilment of her mandate. The present report is submitted in accordance with resolution 2000/85.

I. WORKING METHODS AND ACTIVITIES

A. Working methods

2. The Special Rapporteur has traditionally chosen a theme each year on which to focus the study of the mandate. Themes in the past have included the respective roles of the justice system, the media and education, and more recently have included trafficking and domestic violence. In the current report, the Special Rapporteur will focus upon a sector of society that, until very recently, was largely overlooked in most discussions about human rights: the private sector.

3. In June 2000, the Special Rapporteur wrote to Chambers of Commerce and non-governmental organizations around the world, and informed them that she was seeking to learn more about the possibilities of engaging the private sector as advocates for the rights of the child. She provided the following examples of the types of initiatives of which she had already been informed, and requested further information about initiatives that could be proposed and replicated in other parts of the world.

(a) Companies providing on-site day care facilities so that working mothers can have their children close at hand;

(b) Initiating local programmes with the main goal being to benefit children, for example by providing lights around parks in which children can play safely in the evenings;

(c) Providing scholarships or apprenticeship programmes for out-of-school children;

(d) Raising awareness amongst business partners that being socially responsible is good for business;

(e) Where employees are sent on business trips, companies taking steps to deter activities which may involve sexual exploitation of children;

(f) Ensuring that employed children (any individual under the age of 18) are not at risk of sexual exploitation by their supervisors.

4. Her letter was greeted with great enthusiasm by the Secretary-General of the International Chamber of Commerce, and the Special Rapporteur thanks those Chambers of Commerce and NGOs which provided her with information.

B. Activities

5. During 2000, the Special Rapporteur carried out two field missions. From 28 February to 3 March, the Special Rapporteur visited Morocco (Casablanca, Rabat, Meknès, Tangier and Marrakech) at the invitation of the Government. The report of her visit is contained in document E/CN.4/2001/78/Add.1. From 2-11 October, the Special Rapporteur visited the Russian Federation (Moscow and St. Petersburg) at the invitation of the Government, and the report of the visit is contained in document E/CN.4/2001/78/Add.2.

6. In April 2000, the Special Rapporteur participated in a meeting entitled "Consultation between the right to development and economic, social and cultural rights experts and United Nations agencies and organizations: perspectives for coordination and interaction". The purpose of the meeting, which was organized by the Office of the High Commissioner for Human Rights, was to highlight the need for coordinated interaction between the human rights mechanisms dealing with development and economic and social rights issues and the rest of the United Nations system, so as to ensure that human rights are mainstreamed throughout every aspect of the United Nations work - from peace and security to development, humanitarian issues, and economic and social affairs.

7. The consultation concluded that in many situations good coordination does already exist. The Special Rapporteur reported, for instance, how she had worked with the United Nations Economic and Social Council on the issue of child pornography on the Internet and how UNESCO had used her reports as base documents for its work. However, where such cooperation has taken place, it has mainly occurred on an ad hoc basis. The consultation concluded that substantial overlap exists in many cases between the mandates of various agencies and those of human rights experts and that arrangements for coordination are seriously underused and underdeveloped. If improved, the overlap could generate complementary and reinforcing programmes of work.

8. The Special Rapporteur's experience on various country visits in the past validates this perception. In some countries she experienced a total lack of awareness, even within United Nations agencies, of the existence of the post of Special Rapporteur. Needless to say, coordination and organization of the many meetings and activities held during some of her visits have left much to be desired. On the other hand, the success of several of the visits was enhanced in places where collaboration with the agencies and field offices was a reality.

9. Between 26 and 28 April 2000, the Special Rapporteur participated in a ministerial conference in Tokyo, sponsored by the Japan Committee for UNICEF, during which she addressed some of the causes for entry into prostitution and pornography by children in developed countries.

II. INTERNATIONAL DEVELOPMENTS RELATING TO THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

10. In March 2000, a three-day Asian Regional Initiative Against Trafficking in Women and Children (ARIAT) meeting in Manila, addressed the problem of trafficking in human beings. The goal of the meeting was to develop a comprehensive regional action plan and project proposals to combat the trafficking of women and children within and from Asia. Approximately 100 representatives from more than 20 countries in the Asian-Pacific region, plus the United States, Canada and the European Union attended the ARIAT meeting, which was co-hosted by the Governments of the Philippines and the United States.

11. The organizers said trafficking in human beings, predominantly women and children, is a form of modern-day slavery and one of the most egregious human rights violations of our time. It was reported that in the Asian region alone, it is estimated that as many as 250,000 human beings are bought and sold each year. Hopes were expressed that a Regional Centre against Trafficking would eventually be established to address the problem.

12. On 25 May 2000, the General Assembly adopted the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. As of 5 December 2000, the Optional Protocol had been ratified by 1 State and signed by another 68, and will enter into force three months after the tenth ratification. The new instrument provides detailed international norms for the adoption of measures that will assist in the implementation of the rights enshrined under articles 34 and 35 of the Convention.

13. The Optional Protocol calls for States parties to prohibit the sale of children, child prostitution and child pornography (art. 1) and to ensure that related acts and activities are fully covered under criminal law (art. 3). It sets out international legal obligations requiring States parties to criminalize such violations of child rights, protect the rights and interests of child victims, and assist each other in the prevention, investigation and prosecution of offences, whether committed domestically or transnationally and by individuals or by organizations. Implemented together with the full range of human rights recognized under the Convention, the Optional Protocol will represent a step forward in the development of international child rights law and in international efforts to protect children from sale and from involvement in prostitution and pornography.

14. The Working Group on Contemporary Forms of Slavery held its twenty-fifth session in June 2000 in Geneva, and devoted particular attention to the question of bonded labour and debt bondage. The Working Group also discussed rapidly increasingly dimensions of sexual exploitation being facilitated by the Internet, which no longer just involves the dissemination of pornographic material but includes live sex shows and rape videos and provides access to mail order brides, prostitution and all manner of paedophilia. The Working Group called for improved cooperation between government and national law enforcement bodies, and invited States to introduce legislation and set up mechanisms through which to ensure better control of the Internet.

15. The Working Group also noted the adoption of the Optional Protocol, as well as the concern expressed by various participants with respect to the Protocol's potential to weaken protection for children in comparison with the provisions of the Convention.

16. The problem of child labour has been particularly catalytic in developing the current debate on the corporate social responsibility of the private sector. In June 2000, a one-day seminar entitled "A new partnership for children's rights - Linking with business to combat child labour" took place in Geneva, organized by the International Federation Terre des Homme and Save the Children UK, on behalf of the NGO Group for the Convention on the Rights of the Child. Seminar participants, which included NGOs, representatives of the private sector as well as the International Labour Organization, considered what this partnership meant in reality, with particular examples drawn from the attempts to eliminate child labour from the carpet-producing industry in India, Nepal and Pakistan and from the football stitching industry in Pakistan.

17. The Committee on the Rights of the Child held a day of general discussion on "State violence against children" in September 2000. More than 100 participants, including representatives of United Nations agencies and bodies, more than 70 NGOs and individual experts, discussed the violence suffered by orphans, children abandoned or removed from their parents because of abuse, children with disabilities, children living and working in the streets, and those who are the target of cruel and inhuman treatment and torture when they come into contact with the security forces and the judicial system. The participants divided into two working groups and agreed upon a series of recommendations on the issue of mistreatment, abuse and neglect of children in the care of the State, and on violence against children in the context of law and order concerns.

18. The recommendations included the need to raise public awareness about the problem, to review pertinent legislation, to provide effective training on human rights standards for all relevant professional groups, to expand the use of alternatives to institutionalization and to provide effective remedies when children are victims of violence, and called for increased resources to ensure appropriate treatment of children by the State. The working groups also underlined that all States should be urged to give priority attention to violence against children at the special session of the General Assembly on children in 2001, and to include steps to eliminate such violence in its resulting plan of action.

19. The first World Day for the Prevention of Child Abuse was held on 19 November 2000. The Day was created and launched by the Women's World Summit Foundation and its World Fund for the Dignity of Children, in partnership with the Coalition for Children. Seven speakers addressed various aspects of child abuse and focused on sexual exploitation and prevention programmes. It is intended that this will become an annual event, which aims to help provide children, families and communities with the skills and resources they need to prevent abuse, cope with its effects and ultimately end it, through the worldwide dissemination of educational material, including through the use of the Internet.

III. REGIONAL AND COUNTRY-SPECIFIC DEVELOPMENTS

Australia

20. The Special Rapporteur was concerned to receive information suggesting that immigrant and refugee children are at risk of sexual abuse in Australia's immigration detention centres. In an incident which was reported in June 2000, two Iraqi men in the Curtin Detention Centre in Kimberley, Western Australia, were charged with sexual abuse of children. The Independent Council for Refugee Advocacy in Australia stated that at the very least, children should be segregated and protected from the threat of abuse, called for a review of the situation in the detention centres where children were being held with adults in close confinement, and recommended that families with children be released into the community whilst their asylum or residency requests were being processed.[1]

Argentina

21. In Argentina, police discovered a group of 56 Bolivian children and young persons aged between 9 and 20 years of age being held in captivity and forced to work in conditions of slavery. They were kept under armed guard in appalling conditions, allowed to eat only once a day and shower once a week.

22. The children had reportedly been brought into Argentina illegally, hidden in trucks and sedated. Police searched for the children for two months around La Matanza area of Buenos Aires, and eventually found the children working in four clandestine sweatshops.

23. The President of the Asociaciones Civiles Bolivianas in Argentina, Félix Zapata, said that similar situations are constantly being reported and that there are many more clandestine sweatshops in the area. He reported that minors are brought from Bolivia and other neighbouring countries, and that even Koreans have been found in similar circumstances. Arrangements were made by the Bolivian Consul in Buenos Aires to return the 56 children to Bolivia.[2]

Georgia

24. The Special Rapporteur is concerned by reports that children in Georgia, mainly those who are homeless, are increasingly at risk of falling victim to trafficking networks, and then being exploited through prostitution and labour. NGOs working with street children have expressed concerns that such networks are becoming more organized, whilst at the same time the number of children living on the streets or in an unstable family environment is increasing daily. There are also reports of families allowing children as young as seven or eight to make a living on the streets.[3]

India

Island of Goa

25. The Special Rapporteur commends the efforts of Children's Rights, an NGO in the Indian island of Goa which, recognizing that prevention is better than cure, has mobilized the children of the island to raise the awareness of visiting tourists as to the growing problem of child sex tourism in all regions, and that Goa is already vigilant. On the occasion of the World Day for the Prevention of Child Abuse on 19 November, a group of children marched across the beach from Candolin to Sinquerim with placards in their hands and sashes with slogans across their chests, and handed out leaflets about child abuse to the tourists sunbathing there. The children involved were street and working children who attended the Children's Rights Goa open school at Candolim and Mapusa.

26. There have been some reports of children being sexually abused in Goa, but the problem is not yet considered to be extensive. However, Goa is a haven for tourists, and as the awareness of and the response to child abuse is developing in other popular destinations, sex tourists are constantly seeking new and less threatening environments in which to carry out their abusive activities.

27. The Special Rapporteur considers that such initiatives are critical in areas which could be vulnerable to a future growth in such activities, and would strongly urge governmental and non-governmental agencies working in popular areas for tourists to consider emulating such an approach, whether or not they believe the area is affected.[4]

Nalgonda district

28. In her report to the fifty-sixth session of the Commission on Human Rights (E/CN.4/2000/73), the Special Rapporteur reported information she had received concerning allegations of the sale of children in the Nalgonda district. In a letter dated 8 December 2000, she received the following information from the Government of India:

> "Enquiries made in the matter indicate that the news report in the Deccan Herald News Service, Hyderbad of 31.3.99 entitled 'Sale of Children' gave a sensationalized version of the factual position.
>
> "While there have been instances [in Nalgonda] where babies have been given away to homes for adoption on account of poor economic conditions, illiteracy and chronic poverty of the parents, this cannot be construed as sale of children. It was also found that the large size of families, poverty and poor economic conditions weighed heavily in favour of reducing family size by offering children for adoption. Several measures are being taken by the Government to instil confidence in the poor parents and to persuade them not to give up their babies for adoption. The press reports could not be substantiated. There were cases of transfer of children from poor families to others for better care and subsistence and this has been projected as sale of children."

Pacific region

29. Delegates at a meeting to discuss Asian tourism in Bangkok in August 2000 expressed concern at the growth in child sex tourism in the Pacific region, particularly in Fiji, the Solomon Islands and Samoa. Paedophiles are reportedly increasingly visiting these places which have not yet apparently enacted sufficiently rigorous measures to curtail such activities. The conference aimed to devise strategies to combat child sex tourism through teaching participants how to deal with situations that may arise as paedophiles arrive in their cities and resort towns and start looking for children, in particular, the importance of educating and encouraging hotel owners and employees to report suspicious circumstances involving guests and local children. The Director of Fiji's Criminal Investigations Department, Superintendent Emosi Vunisa, admitted that Fiji was seeing an increase in the number of expatriates engaging in child sex tourism.[5]

Southern Africa

30. In South Africa, a report compiled by a child rights NGO, Molo Songololo, and released in November 2000 called for regional action to halt the growing traffic in children for sexual exploitation. The report highlights the fact that growing numbers of children, particularly from Angola and Mozambique, end up as prostitutes on the streets of Johannesburg and Cape Town. Children are reportedly also being lured and coerced from as far away as Senegal, Kenya, Ethiopia and Uganda to South Africa.

31. The report suggested that the regional trade in children is highly organized with Angolan, Congolese and Nigerian syndicates responsible for much of it. Various methods are used: some children are sold, sometimes with parental consent, some are abducted and others are debt-bonded to the gangs. Along with cross-border trafficking, a growing percentage of South Africa's 17 million children are allegedly being trafficked for sex from poor rural to wealthy urban parts of the country.

32. Poverty, coupled with the belief that having sex with a child will cure HIV infection, were cited as being primarily responsible for the growth in trafficking of children, particularly in countries such as Angola and Mozambique. The report estimated that there may be as many as 38,000 children being trafficked to, and/or systematically sexually exploited in South Africa, where they may be forced to work as prostitutes in clubs, bars, hotels or on the streets. Other children are forced into pornography, and there are allegations that children have been murdered during the filming of pornographic movies. There are currently no laws prohibiting the trafficking of people in South Africa.

33. At the launch of the report, Thoko Mkhwanazi-Xaluve, Director of the National Programme of Action for Children in the Presidency, explained that the Government of South Africa was seeking to decriminalize adult sex work whilst putting more resources into eradicating child prostitution.[6]

Nigeria/Italy

34. The Special Rapporteur remains concerned about the extent to which Nigerian girls wishing to go to Europe are falling victim to trafficking networks. The number of women and girls who leave for Europe each year is not known, but well over 500 Nigerian girls were deported from Italy alone in 1999. As many as 80 per cent of the girls who are trafficked from Nigeria are thought to come from two states, Edo and Delta. Such women and girls usually travel voluntarily, either believing that they will find legitimate employment, or knowing that they will work in prostitution, but preferring that to a life of poverty. However, on their arrival in Europe, they are told that they have to earn up to $50,000 from prostitution in order to pay for their passage from Nigeria, and are then forced out onto the streets to work.

35. Particularly problematic is the treatment that these girls receive from the authorities of the country to which they are trafficked. The usual response is to deport them with no safeguards for their protection and future rehabilitation. Their traffickers are rarely brought to justice.

36. The Special Rapporteur urges European Governments to implement better measures of protection for Nigerian prostitutes in Europe, especially Italy, to consider providing development assistance to the Government of Nigeria to assist these girls to be fully rehabilitated on their return to Nigeria, and to ensure better cooperation between the social services departments of the countries involved in each case to ensure improved assistance to each woman and child, as well as a more sympathetic approach to their plight.[7]

Costa Rica

37. The Special Rapporteur remains concerned at continuing reports of the extent of child sex tourism, mainly involving men from the United States, that takes place in Costa Rica. However, she welcomes recent reports that the Government has started to take measures to combat the situation. Legislation has been passed outlawing sex with children, imposing prison terms of up to 10 years for perpetrators, and the Special Rapporteur urges the Government to fully implement this new legislation and ensure that perpetrators face the full consequences of their abusive activities, whilst ensuring that their young victims are not further traumatized during the legal process.

38. The Government has also funded a national Save Our Children advertising campaign, featuring television and printed advertisements reminding people that children are the nation's most valuable resource. Brochures are to be printed for distribution to arriving visitors, warning that sex with children is unlawful, while government Internet sites promoting Costa Rican tourism will do the same.

El Salvador

39. The Special Rapporteur has received information that two lawyers were arrested by police in Usulatan in March 2000, accused of belonging to a trafficking ring which falsified birth certificates of babies, registering the children as newborns with the names of false parents prior to sending them to the United States. At the time of their arrest, the lawyers had 50 reportedly

false birth certificates for children and another 150 cases were being investigated by the police. The lawyers charged approximately US$ 250 for each birth certificate. No information was available as to the origins of the babies, or how they had been procured.[8]

IV. SPECIAL FOCUS ON THE ROLE OF THE BUSINESS SECTOR

A. Context and background

40. In recent years, there have been several high-profile events which have implicated some corporations in serious human rights violations. These have generated much discussion as to the responsibilities of the private sector in this regard. Public awareness has become such that large-scale entities - notably oil companies which have invested in countries with poor human rights records and others which have been more directly incriminated in the commission of such violations - can no longer act with impunity.

41. Other special rapporteurs have addressed the private sector within the scope of their mandates. The Special Rapporteurs on the situations of human rights in the Sudan and in Afghanistan have both confronted the need to sensitize major petroleum companies to the issue of corporate responsibility, and the Special Rapporteur on freedom of expression has on several occasions considered the implications for human rights of the new technologies of the communication revolution, a sector in which the role of the State is shrinking whilst the corporate sector assumes increasing responsibility.[9]

42. Elements of the private sector are also starting to respond to these concerns, with awareness growing that the long-term success of a company depends on the peaceful and sustained development of the community in which it operates. Promoting, rather than ignoring the human rights of those in the direct vicinity of the activities of an enterprise not only helps to ensure the continued long-term availability of a trained and healthy local workforce, but also - and of greatly increasing importance - avoids potential damage to the reputation of a company.

43. Businesses are also the beneficiaries of human rights protection. They benefit from the protection of corporate privacy, the right to freedom of expression and the right to the peaceful enjoyment of property, and they cannot operate effectively in a society in which there is no respect for the rule of law.

44. The awareness that human rights can be good for business has started to open the door to cooperation. At the international level, in 1999, the Secretary-General of the United Nations, at the annual meeting of the World Economic Forum in Davos, Switzerland, launched the Global Compact, envisioned as a framework for enhanced cooperation between the international business community and the United Nations. More specifically, it is a partnership between the Office of the High Commissioner for Human Rights (OHCHR), the International Labour Organization (ILO) and the United Nations Environment Programme (UNEP), and key business organizations, committed to implementing the nine Global Compact principles, taken from the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work, and the Rio Declaration adopted at the Earth Summit in 1992. Principles 1, 2 and 5 are of most relevance to the work of the Special Rapporteur. Those principles require business leaders to:

(a) Support and respect the protection of international human rights within their sphere of influence (principle 1);

(b) Make sure their own corporations are not complicit in human rights abuses (principle 2);

(c) Uphold the effective abolition of child labour (principle 5).

45. During the negotiations surrounding the drafting of the resolution on the rights of the child in the Third Committee at the fifty-fifth session of the General Assembly, there was a proposal to include in the tenth preambular paragraph a reference to the importance of the private sector to realizing the rights of the child in partnership with Governments, international organizations and all sectors of civil society. The Special Rapporteur was disappointed that this reference was excluded from the draft which was finally adopted.

46. The Special Rapporteur has chosen to focus upon this issue for several reasons. Throughout her term as mandate holder, many positive initiatives which both small firms and large corporations have taken concerning children have been brought to her attention. She has also been made aware of the many lost opportunities and failed initiatives which might have made a substantial impact. In many of these cases, the failure did not arise from a lack of financial assistance, but from a lack of interest, knowledge, or understanding on the part of those who could have been in a position to help.

47. The Special Rapporteur has also been confronted with many situations in which the activities of a private enterprise facilitated, were complicit in, or failed to prevent an act of child abuse. One very common example is hotels repeatedly turning a blind eye to local children being taken to the rooms of guests.

48. It is the intention of the Special Rapporteur to use this report to highlight some of the ways in which this crucial sector of society is assuming and could assume both a proactive and reactive role in responding to violations of this nature.

B. Responsibility of the private sector under international law

49. At the outset, the Special Rapporteur would clarify that nothing in the present report should be interpreted as implying a view other than that the principal responsibility for respecting, ensuring and promoting human rights remains with Governments. However, she considers that Governments alone do not have sole responsibility for the full realization of human rights, and that the private sector as much as other elements of civil society all have an important role to play.

50. The sharing of this responsibility arises from the "redefinition of the parameters of the public and private spheres, including through the emergence of new fragmented centres of power, such as associations, pressure groups, political parties, trade unions, corporations, multinationals, universities, churches, interest groups, and quasi-official bodies".[10] In most societies, it is no longer only the State that is capable of affecting people's daily lives.[11]

51. In the past, the concept of "responsibility" has proved contentious in discussions on the role of the business sector in human rights promotion and protection. Although the need to be "responsible" as far as one's corporate social activities are concerned has been widely accepted, there remains considerable resistance to the use of the term to imply any binding obligations under international human rights and humanitarian standards.

International law

52. International human rights law has long imposed direct obligations on the private sector. It is well recognized both at the domestic and international levels, for example, that labour law forms an important part of international human rights law. The International Labour Organization, established in 1917 as a tripartite structure involving Government, employers and labour representatives, regulates labour and social security conditions in both the public and private sectors. Minimum ages, minimum wages, maximum hours and weekly rest, which traditionally were considered matters exclusive to the private law of contract, are today considered subject to the public standards of labour law, whether the employer is a private or public entity.

53. At the time of the drafting of the Universal Declaration of Human Rights of 1948, the international community recognized that full implementation of the rights enshrined in the document could not be achieved by Governments alone, and thus included reference to the duty of "every individual and every organ of society ... [to] strive ... to promote respect for these rights and freedoms and by progressive measures ... to secure their universal and effective recognition ...".[12]

54. Similarly, the scope of applicability of the Convention on the Rights of the Child of 1989 is not limited to Governments. Article 3 (1) of the Convention reads: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law or administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration" (emphasis added). During the discussions of the text of the Convention, "the view was expressed that, if parents should be protected from States, the child should be protected from parents",[13] and most States have now recognized their duty to intervene in incidents of, for example, domestic violence, which in many countries would have been considered to be entirely a private domestic matter.

55. Moreover, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 2000 widens the scope of the Convention's applicability. In particular, article 4 states that:

> "Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article.[14] Subject to the legal principles of the State Party, this liability of legal persons may be criminal, civil or administrative."

56. Concerning more serious violations of human rights and humanitarian law, including slavery and enforced labour, international criminal law is currently bringing within its scope non-State actors. For example, the Rome Statute of the International Criminal Court (ICC)

categorizes enslavement as a crime against humanity in article 6 (c). This is significant because crimes against humanity may be perpetrated by either State or non-State actors. Although international criminal law applies mainly in situations of armed conflict or post-conflict, it is important to note that the legal category of "crimes against humanity" applies in situations that may technically qualify as peacetime, and so its relevance for the future may be considerable.[15]

57. Developments in labour law at the international, regional and domestic levels, legislation surrounding the rights of the child, as well as the most recent trends in the development of international criminal law make it clear that the activities of private entities, including private individuals and private corporations, do not lie entirely outside the application of international human rights law.

Principles relating to the human rights conduct of companies

58. More directly related to business activities is a set of progressive measures being developed in the Sub-Commission on Promotion and Protection of Human Rights. In 1999, the sessional working group on the working methods and activities of transnational corporations began drafting a set of principles relating to the human rights conduct of companies. The draft principles are premised on the view that, as the power of business enterprises increases, so should their level of social and legal responsibility.[16]

59. Significantly, the draft principles seek to address a wide range of questions including war crimes and crimes against humanity. The draft principles also cover slavery, forced labour, and child labour (E/CN.4/Sub.2/2000/WG.2/WP.1/Add.1, annex, sect. E). They also enjoin companies not to engage in or condone discrimination, harassment and abuse (ibid., sect. C).

60. In particular, section E includes an obligation on companies not to allow any person under 18 years of age to work under conditions which have been identified by ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour of 1999, as likely to harm the health and safety of children or interfere with the physical, mental, spiritual, moral, or social development of a child. It should be noted that child prostitution is listed amongst the "worst forms of child labour".

61. Participants in the working group have also stressed the obligation upon both home and host States to regulate the conduct of third parties, which includes companies, with a view to protecting the human rights of individuals within their jurisdiction (E/CN.4/Sub.2/2000/12, para. 55). A number of members of the working group have urged that the draft principles should form the basis for a legally binding code of conduct to regulate the activities of companies. Although the principal focus of the working group is on transnational corporations, the working group has expressed the view that a human rights code of conduct should apply to all businesses.

62. The draft principles offer the following definition of a "company":

> "1. The term 'company' includes any business enterprise, regardless of the international or domestic nature of its activities; the corporate, partnership, or other legal form used to

establish the business entity; and the nature of the ownership of the entity, including any privately owned and Government-owned entity" (E/CN.4/Sub.2/2000/WG.2/WP.1, annex, para. 1).

63. In section B, entitled "General obligations", the draft principles state that: "While Governments have the principal responsibility to respect, ensure respect for and promote internationally recognized human rights, companies shall also respect, ensure respect for and promote international human rights within their respective spheres of activity and influence" (ibid., para. 6).

64. Principle 16, in the section entitled "Respect for national sovereignty and the right of self-determination", states that "Companies shall have the responsibility to ensure that their business operations do not contribute directly or indirectly to human rights abuses and actively to speak out or otherwise use their influence in order to help promote and ensure respect for human rights" (ibid., para. 16). The Special Rapporteur considers that this principle would cover sweatshop factories and, among others, travel and tourism agencies which support or ignore tourist activity involving illicit sexual conduct with children. Similarly, companies which suspect that their employees are engaging in such activities whilst on business trips but do not take measures to address this would seem to be covered also.

C. The nature of concerns

65. The following paragraphs will consider some of the ways in which irresponsible business practices can harm children, as well as some positive initiatives which have been taken by different elements of the private sector. The Special Rapporteur will focus upon four main areas: child labour, the media, the transport and tourism sector, and business and the community

1. Child labour

66. The situation which most directly links the debate surrounding the rights of the child with the role of the private sector is that of child labour. Many children throughout the world, from Brazil to China, Kenya, India, Mexico, Nepal and Pakistan, to name but a few affected countries, work long and difficult hours every day in unacceptable and exploitative conditions. Rough estimates from the International Labour Organization suggest that as many as 250 million children under 15 work in such conditions. There are countless situations in which a child's work is prejudicial to his or her health - including through operating heavy machinery, working in cramped conditions, repeated direct contact with harmful chemicals and from working in a dimly lit environment causing lasting damage to the eyes.

67. As previously stated, the extension of international human rights standards to govern domestic labour laws has been accepted by the private sector and over the last 10 years, the media and NGOs have played an important role in mobilizing public opinion against those companies which continue to place profits before their employees' welfare. Regrettably, many companies fearing or receiving public criticism about using child labour have taken hurried actions without thinking through or caring about the consequences for the children involved. A recent example is a case involving the MacDonalds chain of restaurants, which ceased doing business with a company in China which produced small toys for the restaurant chain when it

was revealed that children were employed by the company. Many child workers were fired following media reports about the situation, and it is reported that factory officials also threatened the children, telling them to lie about the conditions of their workplace if asked by inspectors. It was reported that MacDonalds intended to carry out a full investigation into these allegations.[17]

68. The Special Rapporteur has repeatedly stressed that she is not against children working, as long as they are employed under certain minimum conditions (namely those under ILO Convention No. 182), including access to education, if the alternative would be that the child turns to commercial sexual exploitation in order to survive. Where companies have unwittingly employed children or discover that their subsidiaries have done so, the Special Rapporteur would strongly encourage them to ensure that the children remain employed under the minimum conditions or are offered alternative, safe sources of livelihood which ensure their access to education.

69. Companies can also help children by removing the need for them to work by employing their parents under fairly paid and reasonably secure contracts, and in safe and healthy working conditions.

70. Where children do work, the very high risk of the child being sexually abused by his or her employer or supervisor is of particular concern to the Special Rapporteur. Working children, who have little or no access to education, are rarely aware of their rights and are extremely unlikely to speak out against any abuse owing to the fear of losing their jobs or being otherwise punished. Even if they feel brave enough to make a complaint, the very nature of their work often isolates them from the organizations and authorities to whom they could turn. When the Special Rapporteur visited Morocco (see E/CN.4/2001/78/Add.1), the situation of child maids, many of whom spend virtually all their time inside their employer's home, was of particular concern in this respect.

71. Children working in factories may work shifts which involve their travelling at night. When the Special Rapporteur visited Coban in Guatemala, she was informed that there had been several cases in which children had been raped whilst travelling to or from work at night. The Special Rapporteur has strongly recommended the provision of transport by the factories concerned for all employees needing to travel during the night.

2. The media

72. The Special Rapporteur considered the role of the media as it relates to the concerns of her mandate in her reports to the General Assembly in 1997 (A/52/482) and to the Commission on Human Rights in 1998 (E/CN.4/1998.101). Given the very great power of the media to influence public opinion, she concluded that it is of vital importance that all who work in this sector are aware of international standards, and that they abide by them. The right to freedom of expression is given extensive protection in most democracies, but the Special Rapporteur considers that the rights of the media to publish and broadcast information and the rights of audiences to receive information have to be carefully balanced against the rights of the child to be protected from abuse or from further abuse, and of the child's right to privacy.

The press

73. Journalists have a vital role to play in this respect. They often have access to information which others ordinarily find very difficult to obtain, and increasingly work together with NGOs and the police to locate and uncover exploiters and places of exploitation. The reporting of arrests and convictions can be a strong deterrent but unfortunately, reporters investigating commercial sexual exploitation of children have sometimes provided information which has helped exploiters, for example, by giving/showing street names or easily identifiable locations. As mentioned in an earlier report (E/CN.4/1997/95/Add.1), the Special Rapporteur regrets that two documentary films she was shown during her visit to the Czech Republic, on the problem of boy prostitution and boy pornography, resulted in an increased demand for the services of the boys featured, whose identities and locations had not been disguised.

74. The manner in which sexual offences are reported in the press can have a devastating impact upon the lives of those involved. Sometimes reporters appear to place the blame upon the victim when sexually degrading events or crimes occur, and occasionally appear to confuse victims with perpetrators by publishing pictures of children who have been sexually exploited while obscuring the faces of offenders. In some instances, the sensational pictures broadcast or printed have themselves verged on pornography, and thus on exploitation. It should also be remembered that daily newspapers do not carry any adult guidance rating and are a normal part of most families' daily life, available to be read by children of all ages.

75. There has been particular media interest in child labour, and in situations where journalists have investigated companies suspected of directly or indirectly using children in their workforces, the reaction of the company has often depended on the manner in which the findings are reported. In most cases where the situation has been reported in a careless and over-sensationalized way, the usual result is instant dismissal of the children concerned coupled with the company distancing itself from any responsibility for their future welfare. The media could play an important role in this respect by showing and contrasting good and bad practices in their coverage of companies, helping to inform the public and encouraging business to act responsibly.

The Internet

76. The role of Internet Service Providers (ISPs) with respect to the dissemination of child pornography has been the subject of much debate in recent years. Given the decentralized nature of the Internet over which no one entity has control, traditional legislation penalizing the dissemination of child pornography cannot be applied to those ISPs which may unwittingly facilitate such crimes.

77. The constant advances in computer technology, including the use of camcorders, video recorders, home editing desks and computer-generated graphics and editing, have made the creation and distribution of child pornography easier, cheaper, and in many cases virtually impossible to detect. As well as the sharing and dissemination of such images, the Internet is also used by paedophiles to contact each other, to have running conversations in the form of "chat rooms" and to set up bulletin boards in which they can exchange information relating to their sexual interest in children.

78. There have been cases in which ISPs have voluntarily shut down certain elements of their services when these have been used for the dissemination of child pornography. Such services have included "anonymous remailers" which take incoming messages, remove the source address and assign an anonymous identification code number with the re-mailer's address before forwarding them to the final destination (see E/CN.4/1998/101). Unfortunately, such closure also affects those who have a legitimate reason to remain anonymous. More recently, however, ISPs have started to react by joining forces with legislators, law enforcement officials and international and non-governmental organizations to examine ways in which they can develop a partnership through which to combat such abuses.

79. On 18 and 19 January 1999, UNESCO hosted an expert meeting in Paris entitled "Sexual abuse of children, child pornography and paedophilia on the Internet", which brought together approximately 300 specialists in child care and child protection, law enforcement agencies and government representatives, representatives from the media, as well as Internet specialists and service providers. The meeting declared, inter alia, that action against illegal content on the Internet needs industry cooperation in restricting circulation and a fully functioning system of self-regulation and that protection must go hand-in-hand with effective law enforcement. An action plan was adopted which, although primarily addressed at UNESCO, decided that both the media and the Internet industry have an important role to play against paedophilia. The participants considered that promoting methods of self-regulation and drafting ethical guidelines for the use of the Internet would encourage the broader participation of the industry, and that appropriate standards for law enforcement and international cooperation should be promoted in coordination with ISPs. UNESCO also declared that, through the action plan, it would promote industry and private sector initiatives to develop codes of ethics on child pornography on-line, working in parallel with legal experts worldwide, and would study the role of ISPs in paedophile networks.

Advertising

80. In her report to the Commission on Human Rights in 1998 (E/CN.4/1998/101), the Special Rapporteur expressed her concerns over the images of children as sexual objects that were used by advertisers to sell all manner of items. At the time, Calvin Klein had recently yielded to pressure and removed its advertisement campaign showing teenagers in "suggestive" poses. However, even for advertisers that use children in a more "innocent" way, the opportunity for future exploitation has inadvertently been created. Photographs of children in their underwear for mail order catalogues are an easily accessible source of material for paedophiles and are commonly used as such, as has been revealed by the discoveries of extensive paedophilia collections during police raids on suspects' homes.

81. The Special Rapporteur welcomes the development in several countries of codes of practice for photographers governing the use of child models, which incorporate guidelines such as the use of chaperones for children on photographic shoots, the avoidance of taking pictures of children in their underwear, and strict guidelines for the conditions in which a child can work.

Positive initiatives

82. There are increasing instances of media working together with other private enterprises and with NGOs to raise public awareness of certain social problems. For example, in Costa Rica, IREX - a major vendor of washing detergent in the country - has produced a television commercial about child abuse. The commercial shows a child playing in his house who, upon hearing his father approach, runs and hides in a closet. The viewer then sees the father remove his belt and raise it as though to hit the child. The child is then heard screaming, "No, Father, no!". Following these scenes, the telephone number of child rights NGO Casa Alianza is displayed, to encourage individuals to report child abuse. This short commercial has been aired on a private television station since the middle of 2000.

83. The number of national and private telephone companies around the world assisting with the establishment of telephone hotlines for children in crisis is rapidly growing. In many countries, this has been coupled with TV commercials advertising the free telephone service, which has had the added effect of raising public awareness of the problems many children face.

3. Tourism and transport

84. The link between tourism, transport, and the sexual abuse of children has long been recognized. The World Tourism Organization in 1995 adopted a statement on the prevention of organized sex tourism,[18] which defines organized sex tourism as "trips organized from within the tourism sector, or from outside this sector but using its structures and networks, with the primary purpose of effecting a commercial sexual relationship by the tourist with residents at the destination".

85. The reasons why many individuals travel abroad to engage in such activities are many and complex, but are usually connected to the belief that the distance from one's home will ensure anonymity. The abuser may consider that he or she is released from the usual constraints arising from the fear of being discovered. Abusers often also convince themselves that such behaviour is accepted in the society being visited, and that the child is actually benefiting from the paid abuse. Sadly, the Special Rapporteur has been confronted with instances in which the child's family also shares this belief.

86. Given the very highly organized nature of many paedophiles, evidenced by the very advanced skills in information technology and thorough knowledge of the Internet that many of them have, as well as the detailed manner in which they catalogue much of their pornographic material, it appears likely that many child sex tourists carry out research on the domestic legislative provisions governing sexual offences before they choose their destination. Other abusers might not normally choose to have sex with a child, but in the holiday atmosphere, perhaps affected by alcohol or drugs, they might commit such an abuse through ignorance or lack of care as to the partner's age.

87. The international non-governmental organization ECPAT[19] has been monitoring and acting against sex tourism, initially in Asia and more recently elsewhere, since 1990. It reports

that sexually oriented tourism now has its own paraphernalia of promotional materials ranging from glossy brochures through organized clubs to the availability of "tour" information on the Internet, which makes information and advice available and allows clients to customize their holiday requirements in advance.

88. ECPAT has documented developed sex-tour industries in the Philippines, Cambodia and Thailand and, more recently, sex tours from North America to Brazil, the Dominican Republic and Costa Rica. ECPAT has also expressed concerns that sex tours in the countries of Eastern Europe are increasing. ECPAT noted that in the past, sex tours were easy to identify and to condemn, but now organized sex tours send their customers in a less obtrusive manner, either travelling alone or in pairs.

89. The Special Rapporteur received information about child sex tourism during several of her country visits, notably to Kenya, Mexico (see E/CN.4/1998/101/Add.1 and 2) and Fiji (see E/CN.4/2000/73/Add.3). Such abuses were often facilitated through the complicity of hotels, bars, restaurants, and taxi services.

90. In Kenya, she was informed that tourist agents, both local and foreign, were known to direct and guide tourists to specific areas, notably in the coastal areas of Mombasa and Malindi, to find child prostitutes, and that the phenomenon appeared to be growing. In these areas, it was reported that organizers of traditional dances for tourist entertainment used children and school drop-outs in their shows and that after the dances tourists often requested the services of performers for sexual purposes. The Mombasa Coast and Tourist Association has carried out awareness-raising campaigns concerning the rights and protection of children with hoteliers, tour operators and caterers, asking them to report to the Association any minors detected in their establishments.

91. Whilst in Mexico, the Special Rapporteur alerted the authorities to information she had received during her visit to the United States of America in December 1996, concerning tour operators who would arrange visits to Mexico for men who wanted to travel especially to have sex with under-aged girls. She urged that, on the basis of the recognition of a common problem, both Governments cooperate effectively with a view to eliminating such operations.

92. One initiative being proposed at the time by the tourism authorities in Cancún, Mexico, was to relocate specific bars and restaurants which were identified as being potentially "risky", in terms of allowing prostitution to be arranged on their premises, to a designated area outside the town, called the zona roja. The aim was to ensure that any illegal activities that might be taking place in the establishments in the "red zone" could be more easily monitored by the police, with a view to identifying potential risks.

93. In Fiji, police reported that they were seeing fewer young prostitutes soliciting on the streets, and believed that the hotels were becoming increasingly complicit in facilitating prostitution. The prostitution taking place in Suva did not appear to be controlled by pimps, but it did appear that taxi drivers had a role in this respect. Many organizations with which the Special Rapporteur had meetings referred to the involvement of taxi drivers, both in helping men to find prostitutes and in arranging a rendezvous point. Several NGOs confirmed that taxis

picked up girls from school, brought them to men waiting in hotels, and later brought them home. It was reported that young street boys were also being taken to hotels for the same purpose. Most taxis were owned and run privately, with no accountability for their activities.

94. In such situations, the influence of corruption cannot be ignored. Many businesses such as hotels and tourist and travel agencies which may benefit from sex abusers have the means to bribe police and public inspectors, who might otherwise enforce domestic law prohibiting such activities. From Sri Lanka, the Special Rapporteur has received several reports that the growing problem of child, and particularly boy, prostitution in the many tourist resorts is greatly facilitated through the complicity of the hotels. Several guesthouses in Negombo reportedly cater to child sex tourists, and ask the tourists and the young boys to rent two rooms, so that in the event of a police raid, the hotel can deny any knowledge of the situation. It is even reported that some tourists arrive with large amounts of cash with which to bribe either the hotel owners, should they choose to report cases of abuse, or the police and other members of the judiciary, should proceedings be started against them.

95. There have been several cases whereby foreign offenders have been granted bail even where there has been very strong evidence of their guilt, and then have been able to pay for their rapid passage out of the country. In one case in 1999, a Swedish national who was arrested whilst cohabiting with a 14-year-old boy was reportedly discovered to have in his possession over 20,000 Swiss francs.[20]

Positive initiatives

96. In many parts of the world, awareness is growing within the tourism and transport sectors of the important role which they must play to protect children's rights. This awareness must be largely attributed to NGOs such as ECPAT, which over the last 10 years have successfully engaged the interest and commitment of world tourism authorities, travel agents, holiday guide publishers and tour promoters in actively working against sex tourism.

97. Posters and leaflets are just two of the many methods being employed to raise the awareness of the problem of child sex tourism. ECPAT has targeted airports, airlines and travel agents distributing brochures to make tourists aware of the law relating to such crimes. Similar initiatives have included car stickers and luggage labels, and most recently some airlines are showing a short in-flight video on this subject.

98. A second initiative, reported by the NGO Casa Alianza in Costa Rica, involves their work with the Costa Rican Hotel Association to train hotel staff throughout San José to combat child sexual prostitution. As tourists sometimes contact children for sex via hotel staff, Casa Alianza has started meeting with groups of hotel staff for two to three hours at a time, to provide information regarding the illegality of promoting child prostitution.

99. The Agenda for Action adopted by the World Congress against Commercial Sexual Exploitation of Children held in Stockholm in 1996 urges participants to "mobilize the business sector, including the tourism industry, against the use of its networks and establishments for the commercial sexual exploitation of children", and to "promote better cooperation and encourage the establishment of national and international coalitions to this effect". In response, the

World Tourism Organization, described as the only intergovernmental organization that serves as a global forum for tourism policy and issues and which includes members from both the public and private sectors, created a Child Prostitution and Tourism Watch Task Force. Its stated aims are to prevent, uncover, isolate and eradicate the exploitation of children in sex tourism. Any organization, company or Government taking action in keeping with these aims may join the Task Force and become part of its international campaign.

100. The Universal Federation of Travel Agents' Associations in 1997 drafted a Child and Travel Agents' Charter, in which the members and affiliates, "mindful of the importance of their role in protecting the environment, people, countries and regions to which they send tourists, [pledged] to exercise the utmost vigilance with regard to such activities of their customers as are brought to their attention". Signatories also pledged "never to promote or assist in the promotion of programmes, tours or travel whose purpose is the sexual exploitation of children", and to "take care to inform their customers of the consequences to tourists of the sexual exploitation of children".[21]

101. Similar sentiments are expressed in documents such as the Code of Conduct against the sexual exploitation of children of the International Federation of Tour Operators,[22] the resolution against the sexual exploitation of children, adopted by the International Hotel and Restaurant Association,[23] and in the final resolution condemning commercial sexual exploitation of children of the International Air Transport Association.[24]

4. The business sector in the community

102. In this section, the Special Rapporteur will report some of the many initiatives taken by private enterprises to benefit children both locally and internationally. As previously stated, certain elements of the private sector have accepted that their activities can affect children and many have started to respond accordingly. However, in the majority of responses that the Special Rapporteur received from Chambers of Commerce, the nature of the enterprises, i.e. their products or services, bore no apparent connection to the children they had chosen to assist, and the Special Rapporteur would encourage further research to be carried out into how such voluntary programmes are developed.

103. The responses received from both those companies more directly affected and others which have chosen to implement what they usually refer to as "community involvement" programmes will be considered under two headings: those that promote child development and those providing child care and protection. There is an obvious overlap in many instances.

Child development

104. Whether through academic programmes, vocational training or by providing opportunities for disadvantaged children, businesses are increasingly being approached and are taking their own initiatives for active involvement in the educational community. Some Governments encourage this involvement by offering tax incentives to those companies which give training and scholarships to children.

105. In Brazil, the Abring Foundation certifies companies as "child friendly" if they do not employ children below the legal working age, and if they contribute to children's development by promoting education or vocational training. Some of the activities supported by Brazilian and international companies include building, maintaining or supporting schools and day-care centres, developing apprenticeship programmes, and supporting cultural, sports and artistic activities which encourage children to stay at school and avoid crime, as well as helping them develop a range of skills and interests.[25]

106. The Hong Kong and Shanghai Banking Corporation Ltd. (HSBC) funded the Hong Kong Family Planning Association's Sex Education Mobile Library, which visits schools, community centres and new towns where there is a large youth population. It combines a library service with consultation services on sex education for young people. HSBC also provides funding to an NGO working with school drop-outs and other children at risk to create a training and education centre, and provides scholarships, bursaries, other academic awards and exchange programmes for students in Hong Kong.

107. In South Africa, a partnership between the Toyota South Africa Foundation and six development and academic organizations in KwaZulu-Natal province provides support for education through a project working with primary teachers, upgrading their maths and science teaching skills. The activities of the project have included providing workshops for teachers and students, developing materials and advocacy with school and provincial authorities for changes in policy. The programme has reached over 1,000 teachers and 45,000 students in 40 primary schools.[26]

108. A shoe manufacturing business in Agra, India, has set up a scholarship fund that is open to the children of workers in the company and also to children in the community, to enable them to attend primary and secondary school. This initiative has led to a decrease in illegal child labour and to a better educated and more skilled workforce.

109. In the United Kingdom, British Telecom (BT) provides support for out-of-school study for marginalized groups and young people from deprived areas. Out-of-hours study centres have been opened in schools one evening a week throughout the United Kingdom, to give young people access to the library and resources in IT. BT has also encouraged staff to get involved as personal mentors to young persons in need of educational support. Also in the United Kingdom, Anita Roddick, founder of The Body Shop, an international chain of shops selling beauty products, has encouraged her staff to get involved in a voluntary way with local projects in the community. The Body Shop has been much acclaimed for its pioneering work to raise the social awareness of consumers with respect to environmental concerns and human rights.

110. In Thailand, the Siam Cement Foundation invites staff from the Siam Cement Group to join a programme offering counselling coaches for children with behavioural problems in orphanages. It provides the expenses, equipment and instruction for interested staff. The Foundation also arranges an occupational training programme for young women and girls in rural areas to enable them to earn a living in their home areas without migrating to the city. The training programme includes prevention of sexual exploitation, prostitution and sexually transmitted diseases as well as other basic life skills. The Foundation has organized a mobile presentation warning about HIV/AIDS, and also teaches about the legal aspects related to

prostitution and sexual harassment. In coordination with other firms and NGOs, the Foundation arranges activities for street children such as youth camps and seminars on child rights, including drug and prostitution prevention.

111. In Lodelinsart, Belgium, Glaverbel manufacturing (producers of glass) are working in partnership with the office secretariat and professional hotel sections of the Sainte-Marie Institute (ISM) and have developed two kinds of training courses. ISM's pupils are young people who come mainly from economically and socially disadvantaged communities, and from the fourth year of secondary education onwards, the Institute's training courses place pupils in real working situations. Three students are hosted for four weeks each by Glaverbel's personnel department.

Child care and protection

112. As well as the provision of educational and development assistance to children, some companies have reached out to help the youngest or most at-risk children. The Special Rapporteur particularly commends those companies which have provided on-site child-care facilities, giving working parents the assurance that their young children are being cared for close by, and in some cases caring for older children who may finish school hours before their parents arrive home.

113. British Telecom has backed "Childline", the only free national help-line for children in the United Kingdom, offering a confidential counselling service 24 hours a day since its creation in 1986. BT provided free London premises, a telephone system and technical services.

114. The Foyer network, a chain of hostels in France which provides accommodation, job search advice and training opportunities to young homeless people, has been emulated and adapted for the United Kingdom through a partnership between Diageo Plc, a producer of food and drink, and Shelter, a British NGO working with the homeless. Diageo, which considers corporate community involvement and long-term social investment to be integral parts of a business, took this initiative after seeking a solution to the conundrum that those who are homeless cannot be employed, and those who are unemployed cannot get a home. Diageo also encourages its 85,000 employees to become involved in community and charitable activities.

115. In Zimbabwe, the Ethical Trading Initiative (ETI) has been working with major commercial farmers to monitor and improve working conditions. ETI membership comprises the Horticultural Promotion Council, the General Agricultural and Plantation Workers Union of Zimbabwe, the National Employment Council, the Farm Community Trust of Zimbabwe, Save the Children and commercial farmers. ETI has developed a methodology for examining welfare issues for workers on farms which can, inter alia, reveal sensitive information on issues such as unrecorded child labour and sexual harassment.[27]

116. Rabobank (banking and finance), in the Tilburg area of the Netherlands, has created several "islands" in the city where children aged up to 14 can play safely and where toys are provided. The "Islands to Play" consist of a playground and a container in which toys are stored. At each island a manager is appointed, recruited from among the long-term unemployed, who supervises the playground with the assistance of volunteers. The islands also help to foster a

sense of responsibility in the children, by creating "children's boards" through which the children have the right to set the rules themselves. For example, one rule that the children decided upon was that they can borrow toys to take home as soon as they have enough "points". Points can be earned through helping to keep the island tidy and helping other children. Rabobank Tilburg supported this initiative financially at first, but now its employees are voluntarily involved in the project, including through raising money through a sponsored bicycle ride to buy go-karts for the children to play with in the islands.

117. In 1990, HSBC opened its own child care centre - the first such centre in Hong Kong - providing an on-site day-care facility for 135 staff members' children aged between two and five, at a subsidized rate. The centre is situated in the HSBC Centre in Kowloon which has over 5,000 employees.

118. The Siam Cement Foundation, based in Bangkok, in coordination with other construction companies, has set up 13 day-care centres at various construction sites for the children of workers, in order to assure the parents of their childrens' welfare and safety and to assist in the proper development of pre-school children.

119. The Italian Brewers Association established the Permanent Observatory on Youth and Alcohol in March 1991, with the goals of supplying updated information on the drinking behaviour of young people, promoting responsible consumption of alcohol, contributing to the prevention of alcohol abuse especially among young people, and contributing to more effective alcohol-related policies.

120. The Orient Overseas Container Line Ltd. has assisted schools in China, including institutions for homeless young people in Hong Kong, sent aid to orphanages in Chernobyl, and offered cargo transport space to carry medication to Ukraine for two orphanages with children suffering from radioactive diseases.

Notes

[1] "Sex attacks prompt calls to remove children from detention centres", ABC news, 21 June 2000.

[2] "La Policia argentina los encontró en cuatro talleres del barrio la Matanza", EFE Press Agency, 23 June 2000.

[3] The Independent Society "Human Rights in Georgia", "Georgia: Support for Human Rights and Documentation Centre", Human Rights in Georgia, No. 18-19/2000.

[4] Children's Rights in Goa: Campaign Against Paedophilia, reported to the Special Rapporteur by the Women's World Summit Foundation.

[5] "Child sex tourism growing in the Pacific", Pacnews, Alofi, Niue, 21 August 2000.

[6] "Regional call to end child sex trade", United Nations Integrated Regional Information Network (IRIN), Johannesburg, South Africa, 22 November 2000.

[7] "Girls for sale: the scandal of trafficking from Nigeria", On the Record, vol. 12, No. 1, 5 June 2000.

[8] La Prensa Grafica - El Diario de Hoy, 17 March 2000.

[9] See, inter alia, document E/CN.4/1998/40.

[10] See Andrew Clapham, Human Rights in the Private Sphere, Oxford Monographs in International Law, p. 137.

[11] Not only do supranational organs introduce a new power relationship with the potential for abuse of power between the individual and the supranational authority, but there are also various groups which may bypass the State machinery and exercise direct influence on supranational authorities, which in turn directly exercise power over the individual - Clapham at p.138.

[12] Universal Declaration of Human Rights, introductory paragraph.

[13] E/CN.4/1988/28, para. 38.

[14] Article 3 (1) states:

"(a) In the context of sale of children as defined in article 2:

(i) Offering, delivering or accepting, by whatever means, a child for the purpose of:

a. Sexual exploitation of the child;
b. Transfer of organs of the child for profit;
c. Engagement of the child in forced labour;

(ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;

(b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;

(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2."

[15] See Lyal S. Sunga. The Jurisdiction of the Permanent International Criminal Court (Part II, arts. 5 to 10), European Journal of Crime, Criminal Law and Criminal Justice, vol. 6, No. 4, (1998), pp. 377-399.

[16] See E/CN.4/Sub.2/2000/12, sect. II and E/CN.4/Sub.2/2000/WG.2/WP.1 and Add.1 and Add.2.

[17] "China factory fires teenage workers", International Herald Tribune, 5 September 2000.

[18] WTO Statement on the Prevention of Organized Tourism, adopted by the General Assembly of the World Tourism Organization at its eleventh session, Cairo, 17-22 October 1995 (resolution A/RES/338(X1)).

[19] Originally known as End Child Prostitution in Asian Tourism, now the Global Network to End Child Prostitution, Pornography and Trafficking.

[20] Mandana Ismail, "More sex in the sin city", Sunday Leader, 2 May 1999.

[21] See http://www.world-tourism.org/omt/sextouri/uftaa-a.htm.

[22] See http://www.world-tourism.org/omt/sextouri/ifto-a.htm.

[23] Adopted in Mexico City on 30 October 1996.
See http://www.world-tourism.org/omt/sextouri/iha-a.htm.

[24] At its fifty-second annual general meeting, held in Geneva on 4 November 1996.

[25] Save the Children (UK), Big Business, Small Hands: Responsible approaches to child labour, p. 64.

[26] Ibid., p. 4.

[27] Ibid., p. 69.